in accord involve simply the legislative power of municipal corporations. *Henderson* v. *Heyward*, 109 Ga. 373, 34 S. E. 590; *Sullivan* v. *Oneide*, 61 Ill. 242. But there are contrary adjudications. *Cohen* v. *State*, 7 Ga. App. 5, 65 S. E. 1096; *Easley* v. *Pegg*, 63 S. C. 98, 41 S. E. 18. See *Mugler* v. *Kansas* 123 U. S. 623, 660. The court theorizes that the police power can be exercised only on behalf of the public, while this statute concerned individual conduct. Yet at common law suicide and self-mayhem were crimes. *Rex* v. *Russell*, 1 Moody C. C. 356; *Wright's Case*, Co. Lit. 127*a*. See 1 BISHOP, CRIMINAL LAW, 8 ed., §§ 259, 511. This statute should be upheld unless judicial eyes can clearly see it has no reasonable bearing on the public health, morals, peace, or welfare. See *Mugler* v. *Kansas*, *supra; Powell* v. *Pennsylvania*, 127 U. S. 678; *Holden* v. *Hardy*, 169 U. S. 366. If the statute be overthrown, one who has satiated his protected right privately to renounce sobriety might forthwith tire of seclusion, and burst forth a public menace. Furthermore, the "public" is but a composite of individuals, who should not be entitled singly to jeopardize their own health and increase the possibility of their becoming public charges. The principal case would seem to recognize a constitutional guaranty to the individual not to be deprived of life, liberty, or liquor.

POLICE POWER — REGULATION OF BUSINESS AND OCCUPATIONS — PROHIBITION OF NIGHT WORK BY WOMEN IN FACTORIES. — The defendant was convicted under a New York statute (CONS. LAWS, c. 31, as amended by LAWS 1913, c. 83) which provided that "no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after ten o'clock in the evening of any day." *Held*, that the statute is constitutional. *People* v. *Charles Schweinler Press*, 53 N. Y. L. J. 81 (N. Y. Ct. of App.).

For a discussion of the significance of this decision as marking the present attitude of the courts in approaching questions of "due process," see NOTES, p. 790.

POLICE POWER — REGULATION OF TRADE, PROFESSIONS, AND BUSINESS — PROTECTION OF THE ECONOMIC WELFARE OF A STATE. — A Florida statute prohibited the shipment of fruit that was "unripe or otherwise unfit for consumption." The petitioner, who had been arrested for attempting to ship unripe oranges from Florida to Alabama, sought a writ of *habeas corpus* on the ground that the statute, so far as it applied to interstate shipments, was an invalid exercise of police power by the state. *Held*, that the statute is constitutional. *Sligh* v. *Kirkwood*, 237 U. S. 52.

To reach the unique point of this case it must be premised that the statute in question presents no conflict with federal jurisdiction over interstate commerce. There appears to be no enactment of Congress that deals with the situation, for the Food and Drugs Act applies only to decomposed fruit. U. S. COMP. STAT., 1913, § 8723. And there can be little doubt that since Congress has taken no affirmative action, the restriction placed upon interstate commerce is of the incidental sort which is not objectionable. *Hennington* v. *Georgia*, 163 U. S. 299; *Minnesota Rate Cases*, 230 U. S. 352, 402. Since the shipment involved was designed for the citizens of other states, the statute could not be upheld as a health measure, but had to be rested upon the novel principle that the state may prevent the shipment of unripe fruit because such sales injure the reputation of the state in an industry which is vitally related to its entire economic welfare. There is room for difference of opinion as to the probability of injury of this sort, but the legislature could not be deemed unreasonable in thinking that undiscriminating buyers in the outside markets would associate the injurious quality of the fruit with the fact that they came from Florida. It

may also be questioned whether the police power should be exerted to promote the material prosperity of the public, but there can be no doubt that the principle has made a substantial beginning in American law. See *Missouri, Kansas & Texas Ry. Co.* v. *May*, 194 U. S. 267; *Eubank* v. *City of Richmond*, 226 U. S. 137. The result of the principal case is closely analogous to a previous decision which upheld prohibiting the owner of a gas or oil well from allowing waste which tended to exhaust the underground reservoir that was common to the entire community. *Ohio Oil Company* v. *Indiana*, 177 U. S. 190. And the damage to other citrus producers in the state is of the same sort which results from unfair competition or monopoly, the statutory prevention of which has never been thought invalid. See *Pearsall* v. *Great Northern Railway Company*, 161 U. S. 646. In the principal case an act is in question which is inimical to the financial welfare of the whole state, and there seems to be no reason why the legislature should be powerless to prevent it merely because the channel of causation passes at one point outside of the jurisdiction.

PRESUMPTIONS — EXISTENCE AND EFFECT OF PRESUMPTIONS IN PARTICULAR CASES — NO PRESUMPTION ON A PRESUMPTION. — The body of the deceased was found on the defendant's track five hundred feet below a crossing. A foot severed from the body was found caught in a frog at an intermediate point. To charge the railroad with the violation of a duty, it was necessary to prove that the deceased was struck at the crossing. The facts relied on were that footprints were found there and that marks such as might have been made by a body dragged by a train extended from the crossing to the point where the body was found. The jury was asked to infer that the footprints were those of the deceased, that he was struck at the crossing, carried along until his foot caught in the frog, and then killed. The plaintiff obtained a verdict. *Held*, that the verdict must be set aside. *Atchison, T. & S. F. Ry. Co.* v. *De Sedillo*, 219 Fed. 686 (C. C. A., 8th Circ.).

See NOTES, p. 795, for a discussion of the maxim "No presumption upon a presumption," upon which the result in this case was based.

RULE AGAINST PERPETUITIES — ANNUAL GIFTS OF INCOME SUBJECT TO VARIATION IN AMOUNT BY EXTRANEOUS CIRCUMSTANCES. — Under a power in her marriage settlement, the wife appointed the fund by will to trustees to hold till her insane son died or became sane. Each year the trustees were to pay him a sum sufficient to bring his income from all sources up to £200 a year, the residue, if any, to be distributed among other sons. *Held*, that the trust is altogether void. *In re Whiteford*, [1915] 1 Ch. 347.

The court bases its decision on the fact that the gift to the son is not vested, and consequently calls the whole too remote. Had it allowed the payment for any one year, however, the son's right to that year's income would vest, and that vesting would not affect the contingent character of the gift in future years. If that year the son should receive a large legacy bringing in a £200 income, none of the gift would vest in him that year, and yet that would not prevent payments in future years should his legacy be dissipated. It is submitted that this should not be considered as one gift, but rather as a series of yearly gifts, all contingent. On this analysis the court erred in not allowing payments to the son for twenty-one years after the mother's death. While the problem would seem *res integra*, an analogy is afforded by the cases where there is a series of gifts to the person who shall fill a certain description each year. One case has called such a gift bad *in toto*. *Siedler* v. *Syms*, 56 N. J. Eq. 275, 38 Atl. 424. Professor Gray criticised this, and his view has been followed in a case that holds the gifts good for twenty-one years. *Lyons* v. *Bradley*, 168 Ala. 505, 53 So. 244. See GRAY, RULE AGAINST PERPETUITIES, 3 ed., § 410 *a–e*.